

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 972 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

RAMLAL M PATEL

Versus

DIST DEVELOPMENT OFFICER

Appearance:

MR SM MAZGAONKAR for Petitioner
MR KG VAKHARIA for Respondent No. 1, 2
MR KT DAVE, AGP for Respondent No. 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/06/2000

ORAL JUDGEMENT

The petitioner was an Extension Officer (Agriculture)(Training and Visit Scheme) in the Agriculture Department of the State Government. As per the birth date recorded in the petitioner's service book (7.4.1928) the petitioner was to attain the age of superannuation on 30.4.1986. However, the petitioner raised a dispute by filing Special Civil Application No.

2258/86 contending that the petitioner's correct birth date was 5.12.1929 and that on that basis the petitioner would attain the age of superannuation on 31.12.1987. The petition was admitted but no interim relief was granted and, therefore, the petitioner retired on superannuation with effect from 30.4.1986 AOH. In this view of the matter, the pension papers of the petitioner were required to be processed. The petitioner was required to be paid gratuity and pension. However, the petitioner was not given all his retiral benefits and, therefore, the present petition came to be filed.

2. Affidavit in reply came to be filed by the District Agriculture Officer, Mehsana District Panchayat on 29.6.1988 pointing out that the District Agriculture Officer of the Mehsana District Panchayat had forwarded the pension papers to the Treasury Officer but further action was not being taken by respondent No. 3. It appears that the petitioner's pension papers were not being processed by respondents No. 3-Accountant General on the ground that the dispute raised by the petitioner about his birth date was pending adjudication before this Court and that respondent No. 3 was not a party to that petition i.e. Special Civil Application No. 2258/86. The petitioner also filed Civil Application No. 293/90 in the present petition and this Court passed order dated 8.3.1990 directing the respondents to finalise the pension case of the petitioner on the basis of the retirement date of the petitioner as claimed by the department (i.e. 30.4.1986). Pursuant to the aforesaid direction, the Accountant General finalized the pension case of the petitioner and communicated the decision to the learned solicitor then appearing for the respondents as per the letter dated 24.4.1990 in the following terms:-

No. PR-I/305 Agrl/ 109
OFFICE OF THE ACCOUNTANT
GENERAL (A&E) GUJARAT,
AHMEDABAD.

Dt. 24/4/90

xxx xxx xxx xxx xxx

Accordingly the pension case of Shri R.M>

Patel has been finalised taking the date of retirement as 30-4-86 and the following pensionary benefits have since been authorised under G.C.S. R.O.P. Rules '87 to Shri Patel, through Department of Pension & Provident Fund.

1. Pension of Rs.972-00 p.m. with effect from 1-5-86
2. DCRG of Rs.34,650-00 in lump sum subject to adjustment of provisional DCRG of Rs.15,000/- already been paid by Department.
3. Commuted value of pension of Rs.41,912-65
4. Reduced pension after commutation of Rs.648/- P.M.
5. Family pension to Smt. Ambaben @ Rs.900/p.m. for seven years from the date subsequent to the death of Shri Patel or upto 6-4-93 and @ Rs.450/- p.m. thereafter till her death or remarriage.

The revised Entitlement report has been sent to D.P.P. vide Pr-3/305 Agrl/293 dt. 23-3-90 for the Issue of authority payable at Kadi S.T.O.

Yours faithfully,

Sd/-
Accounts Officer/PR-I

3. The learned counsel for the petitioner has submitted that the petitioner was wrongly denied the arrears of pension for a considerable time without any justification and, therefore, the petitioner should be awarded interest on arrears of pension and gratuity.

4. Mr KT Dave, learned AGP appearing for the respondents has opposed the request and has submitted that since the petitioner had raised a dispute about his birth date, any interest need not be awarded.

5. Having heard the learned counsel for the parties, it appears to the Court that when this Court had not granted any interim relief in Special Civil Application No. 2258/86, and when the petitioner was made to retire on superannuation with effect from 30.4.1986, there was no reason for the respondents not to finalise the petitioner's pension case. If the respondents, particularly respondent No. 3, had any doubt, they could have sought for the clarification from their learned solicitor or they could have moved this Court with an application for appropriate directions. Nothing of the

sort was done. It appears that the petitioner was not given his valuable retiral benefits for a number of years. There is, therefore, no reason to deny the petitioner interest on the arrears of pension and gratuity for the period during which the same was not paid to the petitioner.

6. In view of the above discussion, this petition is allowed. The respondents are directed to pay the petitioner interest at 12% per annum from 1.11.1986 till the date of payment. The amount of interest shall be calculated and paid over to the petitioner within three months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier. In case, this direction is not complied with within the aforesaid time limit, the respondent shall pay further interest at the rate of 12% per annum on the amount of interest so calculated with effect from today till the date of payment. It will be open to the Government to recover such further interest on interest from the concerned employee the delay on whose part results into late payment of interest beyond the period of three months.

7. Rule is made absolute to the aforesaid extent. The respondents shall pay the petitioner costs of this petition which are quantified at Rs.2000/- (two thousand only) within three months from today.

June 16, 2000 (M.S. Shah, J.)
sundar/-